



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>CHRISTOPHER LAWSON,</b>	)	<b>CHARGE NO: 2001 CP 3107</b>
	)	<b>EEOC: N/A</b>
<b>Complainant,</b>	)	<b>ALS NO: 11874</b>
	)	
<b>and</b>	)	
	)	
<b>HALSTED MARATHON STATION,</b>	)	
	)	
<b>Respondent.</b>	)	

**RECOMMENDED ORDER AND DECISION**

This matter comes before me pursuant to the Commission's order of default against Respondent entered on August 28, 2002, in which it directed the Administrative Law Section to conduct a public hearing to determine Complainant's damages.

**Statement of the Case**

On August 28, 2002, the Commission entered an order of default against Respondent following the filing of a petition by the Department of Human Rights after Respondent failed to file a verified response to the charge filed in this case by Complainant on June 15, 2001, and for failure to attend the fact-finding conference set by the Department. The petition recites that a Notice of Default was issued in this case, the Respondent filed a request for review, but the default was sustained by the Chief Legal Counsel of the Department of Human Rights. The order further directed the Administrative Law Section to conduct a public hearing to determine the damages of Complainant for which an award could be entered. On September 16, 2002, an order was sent to the parties at their last known addresses indicating that a public hearing for this

purpose would take place at 9:30 a.m. on Thursday, October 17, 2002 at the offices of the Commission in Chicago.

Neither party appeared for the public hearing, nor has either filed any motion for continuance or for any other purpose. On October 17, 2002, an order was sent out by the Administrative Law Judge giving the parties until October 28, 2002 to file an appropriate motion with the Commission explaining the reason why they failed to contact the Commission or appear for the public hearing. Neither party filed a motion.

### **Findings of Fact**

1. Complainant, Christopher Lawson, filed Charge No. 2001 CP 3107 with the Illinois Department of Human Rights on June 15, 2001, alleging that Respondent, Halsted Marathon Station, denied him access to a place of public accommodation on the basis of his race, black.

2. On August 28, 2002, the Commission entered an order finding Respondent in default for its failure to file a verified response to the charge and for failing to attend the fact-finding conference.

3. On September 16, 2002, an order was entered scheduling a public hearing on the issue of damages for October 17, 2002, at 9:30 a.m. at the Commission's office in Chicago. The Commission duly served this order on both parties at the addresses provided in the record. Neither mailing was returned as undeliverable.

4. Neither party appeared for the public hearing, nor did either party file a motion for continuance or communicate in any other way with the Commission.

### **Findings of Law**

1. In accord with the default order entered by the Commission on August 28, 2002, Respondent is liable for a violation of the provisions of the Illinois Human Rights Act that prohibit discrimination against employees on the basis of race.

2. Because Respondent failed to appear at the public hearing scheduled for 9:30 a.m. on October 17, 2002 at the offices of the Commission in Chicago to present evidence of the damages he suffered as a result of the unlawful conduct of Respondent, Complainant is not personally entitled to any monetary damages or other award.

### **Discussion**

Under the Human Rights Act, charges of civil rights violations are first fully investigated by the Department of Human Rights and a disposition of the case appropriate to the results of that investigation is made. By not filing a verified answer in response to the charge and for failing to attend the fact-finding conference, Respondent effectively prevented the Department from conducting a full investigation, thereby thwarting it from making an informed, factually based decision whether to file a complaint, dismiss the charge or otherwise dispose of the case.

To support the strong public policy requiring the identification and rectification of civil rights violations as expressed by the Illinois Human Rights Act, the legislature determined that the most apt sanction for hindering the Department's efforts is the entry of a default against the offending party. 775 ILCS 5/7A-102©(4). The consequence of the default order entered in this case is that Respondent is liable for a violation of the provisions of the Illinois Human Rights Act prohibiting discrimination in employment based on race as alleged in Complainant's charge.

However, because Complainant has failed to appear for the "damages only" public hearing scheduled in this case as required by the Commission's order of October 17, 2002, it is not possible to determine with certainty the actual damages suffered by Complainant as a result of Respondent's unlawful act. In Magraff and Alexopolis, Ill. H.R.C. Rep. (1990CN0209), November 8, 1993), the Commission declared that in cases of default where the Complainant has failed to participate in the damages hearing, the order of default is to remain in effect, but no award is made to Complainant for his actual damages or for attorney's fees. This enables the Commission, in furtherance of the public interest, to then order Respondent to cease and desist from any further unlawful discrimination in the workplace.

### **Recommendation**

In accord with the principles stated in Magraff, I recommend that the Commission reaffirm its finding of default and order Respondent to cease and desist from further acts of racial discrimination of denying access to blacks to its places of public accommodation. I further recommend that the Commission make no award to Complainant because of his failure to present evidence providing a basis for any such award.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
NELSON E. PEREZ  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: December 4, 2002